

Town of Amherst  
Zoning Board of Appeals - Special Permit  
*DECISION*

**Applicant:** Kamins Real Estate/Geoffrey Roberts (for Presidential Apartments)  
55 South Pleasant Street, Amherst, MA 01002

**Owner:** Toby K. Cohn LLC  
One Regency Drive, Bloomfield, CT 06002

**Date Application filed with the Town Clerk:** August 22, 2007

**Nature of request:** Petitioner seeks a Special Permit to modify Special Permit ZBA FY1966-49, Conditions #1 and #5, to increase parking along the main access drive and circle for 24 more parking spaces, under Section 9.22 of the Zoning Bylaw.

**Location of property:** 950 North Pleasant Street, Map 8A, Parcel 1, R-N Zone.

**Legal notice:** Published in the Daily Hampshire Gazette on September 5 and September 12, 2007, and sent to abutters on September 5, 2007

**Board members:** Russell Frank, Jane Ashby and Al Woodhull

**Submissions:**

The applicant submitted the following documents:

- A Management Plan;
- A Lease Agreement;
- A Project Summary;
- A Site Plan entitled "Exhibit A – Existing Conditions", undated, with accompanying notes on number of existing parking spaces per parking lot;
- A Site Plan entitled "Exhibit B – Proposed Changes", undated, with accompanying notes on number of existing and new parking spaces per parking lot, including other proposed changes.

Town of Amherst staff submitted the following documents:

- Excerpts from the 1958, 1964 and 1966 Town of Amherst Zoning Bylaws regarding parking space requirements for dwelling units; one parking space per dwelling unit was required at that time;
- A memorandum from the Planning Department, dated September 14, 2007, commenting on the application;
- A copy of Special Permit ZBA FY1963-16, granted to Louis R. Cohn, to construct 6 units, each containing 14 apartments, plus a basement apartment to house a janitor;
- A copy of Special Permit ZBA FY1966-49, granted to Louis R. Cohn, to construct a garden apartment complex of not more than 60 dwelling units, to be situated west of the units already built on the lot;
- A Site Plan from the Amherst GIS Viewer showing the property in context with the surrounding parcels of land.

**Site Visit:** September 19, 2007

At the site visit the Board was met by Pat Kamins and Geoffrey Roberts of Kamins Real Estate. The Board observed the following:

- The location of the property on a lot that is set far back from a busy thoroughfare (North Pleasant Street) and surrounded by single-family homes, open space and a large apartment complex (North Village);
- The location of the well-maintained brick apartment buildings;
- The location of the driveways and parking spaces;
- The location of the new parking spaces which have already been constructed;
- The proposed location of the walkway on the north side of the main access drive and the location of the proposed cross-walk.

**Public Hearing:** September 20, 2007

At the public hearing, Mr. Kamins and Mr. Roberts presented the petition. They presented the following information and made the following comments:

- The management of the apartment complex had been examining ways to add parking;
- There had been one hundred and seven (107) existing spaces, plus enough space in an unmarked lot to the west of the buildings for another eight (8) cars;
- The management wanted to add parking spaces that the tenants would actually use, not spaces that were inconveniently located;
- The “existing” site plan shows an eight (8) foot wide sidewalk running along the south side of the twenty-five (25) foot wide access drive;
- Residents had been parking along the sidewalk, creating a problem for snow plowing and for emergency vehicles;
- The eight (8) foot wide sidewalk was removed from the south side of the driveway from the east side of Washington House [the first building on the left as one enters the site] to the west side of Adams House [the building to the west of Washington] in order to create space for eighteen (18) new parking spaces;
- The landscaped circle at the center of the cul-de-sac was removed to provide six (6) new parking spaces;
- Other ideas had been explored such as constructing parking behind Jefferson House [the first building on the right as one enters the site]; this option would have involved removing an area of lawn and trees that is used by the tenants;
- Another option that was considered was to designate as tenants spaces the parking area behind Garfield House [the last building on the right as one enters the site]; this option would have involved placing eight (8) tenant spaces in a location considered to be inconvenient by the tenants;
- The plan that was chosen consists of the following:
  - Leave the eight (8) foot wide sidewalk from North Pleasant Street to a point just east of Jefferson House;
  - Provide a cross-walk at that point;
  - Install a sidewalk along the north side of the access road in front of Jefferson House;
  - Remove the eight (8) foot wide sidewalk in front of Washington and Adams Houses;
  - Install eight (8) parallel parking spaces in one location and ten (10) parallel parking spaces in the other location;
  - Stripe the lot in back of Garfield House to accommodate eight (8) guest spaces in addition to the four (4) existing tenant spaces in that lot;

- The parts of the plan that have not yet been completed are the striping of the guest parking lot, the construction of the sidewalk in front of Jefferson House and the installation of the cross-walk at the point where the sidewalk jumps from one side of the access road to the other; all of the other items on the proposed plan have been completed.

Mr. Roberts stated that he and the other people at Kamins Real Estate did not realize that they needed to obtain permission from the Zoning Board of Appeals to make these changes. He apologized to the Board for this oversight.

Mr. Roberts also stated that there are one hundred and seven (107) existing tenant parking spaces. There will be twenty-four (24) new parking spaces and eight (8) new guest parking spaces. Thus, there will be a total of one hundred and thirty-nine (139) parking spaces. Mr. Roberts noted that the current Zoning Bylaw requires two (2) parking spaces per dwelling unit. The original Special Permits required 1 ½ parking spaces per dwelling unit [for a total of 127 spaces]. With eighty-five existing apartments, the current Zoning Bylaw would require a total of one-hundred and seventy (170) parking spaces.

Mr. Roberts noted that the new sidewalk is proposed to be asphalt.

Mr. Frank asked if there were any plans to install signs at the cul-de-sac to indicate in which direction drivers are to travel. Mr. Roberts stated that it would be a good idea to install “Keep to the Right” signs and that the pavement could also be striped to indicate the direction of travel.

Ms. Ashby asked if it would be possible to run the sidewalk on the north side of the access drive all the way to North Pleasant Street. Mr. Roberts stated that the neighbors on the north side have encroached on the property of Presidential Apartments with shrubs and flowers and that it would be a shame to remove these planting areas and replace them with sidewalk.

The Board examined the site plan from the Amherst GIS system to determine if there would be room for a sidewalk in that location.

Ms. Ashby asked the approximate distance from North Pleasant Street to the proposed cross walk. She noted that the entrance drive into Presidential Apartments is hard to find and that drivers will be intensely focusing on where they are going and not on whether there are pedestrians in the roadway or not. She commented that the proposed cross-walk is located very close to the turn-in from North Pleasant Street.

Christine Brestrup from the Planning Department noted that the GIS plans are not always accurate with respect to the location of property lines, so it would be difficult to determine if there was room for a sidewalk on the north side of the road, based on the GIS plans. A survey would be needed for more accurate information.

Mr. Roberts suggested installing a speed bump in the road to slow the traffic down. He also suggested installing signs that read “Speed Bump” and “Cross-walk Ahead”.

Mr. Woodhull commented that he was annoyed that the management had removed the sidewalk and installed parallel parking spaces. He noted that there will be no room for bicycles and that the property as a whole is not “bicycle-friendly”.

Mr. Kamins commented that the existing roadway is twenty-five (25) feet wide. Mr. Roberts suggested that a narrow bicycle lane could be striped along the north side of the access drive. Ms. Ashby noted that the cars parked in the parallel spaces along the south side of the driveway were parked facing towards the west. She commented that the problem of drivers' side doors opening in the path of cyclists may not be a problem given this reversed pattern of parking.

There was a discussion of the width of the access drive and whether it could accommodate narrow bicycle lanes on both sides of the drive. There was also discussion about how people walk into and out of the site.

Mr. Frank MOVED to close the evidentiary portion of the public hearing. Mr. Woodhull SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

### **Public Meeting – Discussion**

At the public meeting the Board discussed its findings and the conditions that would be imposed if the Board were to approve the application. Mr. Woodhull stated that he was considering a requirement that the new parking spaces be removed. He expressed concern that the sidewalk had been taken out in order to provide additional parking spaces. He stated that the issue of bicycles was very important. The Board discussed the fact that tenants had been parking in the wrong places. There was also a discussion about the reversed direction of parking on the south side of the access drive. Mr. Woodhull stated that a bicycle lane should be painted on each side of the access drive.

### **Public Meeting – Findings:**

Under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, the Board found that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood in which it is proposed, and is compatible with surrounding uses, because the property serves a residential use and the additional parking spaces will bring the apartment complex, a non-conforming residential use, into closer conformance with existing zoning bylaws with respect to parking requirements and bring it into conformance with the two previous Special Permits issued for the property.

10.382, 10.383, 10.385 and 10.387 – The proposal would not constitute a nuisance, protects the adjoining premises against detrimental or offensive uses, and would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians because the additional parking spaces will prevent tenants from parking in the access drive and will prevent the tenants from blocking the driveway to the house at 956 North Pleasant Street. The proposal includes a new section of sidewalk on the north side of the access drive, which will help to prevent tenants from walking in the roadway; it includes appropriate signage to warn drivers about the new speed bump and cross-walk and about the need to travel around the cul-de-sac in a counter-clockwise direction.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the additional parking spaces to be provided, in addition to the existing parking spaces, will appropriately serve the needs of the tenants in the eighty-five (85) apartment units and, based on the conditions of the Special Permit, will help to serve the needs of bicyclists and pedestrians.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the Bylaw because the additional twenty-four (24) tenant parking spaces and eight (8) guest parking spaces will make the property less non-conforming with respect to Parking regulations and the new signs will be standard traffic or roadway signs in terms of style and design and will be approved by the Board at a public meeting.

10.392 – The proposal provides adequate landscaping because the site is already adequately landscaped and maintained.

10.398 – The proposal is in harmony with the general purpose and intent of the Bylaw because the proposal will promote the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

**Public Meeting – Zoning Board Decision**

Ms. Ashby MOVED to approve the application with the conditions drafted. Mr. Frank SECONDED the motion. The Board VOTED unanimously to approve the conditions as drafted.

For all the reasons stated above the Board VOTED unanimously to grant a Special Permit to modify Special Permit ZBA FY1966-49, Conditions #1 and #5, to increase parking along the main access drive and circle for twenty-four (24) more tenant parking spaces and eight (8) additional guest parking spaces, for a total of 139 parking spaces, under Section 9.22 of the Zoning Bylaw, as applied for by Kamins Real Estate/Geoffrey Roberts (for Presidential Apartments), at 950 North Pleasant Street, (Map 8A, Parcel 1, R-N Zone), with conditions.

\_\_\_\_\_  
RUSSELL FRANK

\_\_\_\_\_  
JANE ASHBY

\_\_\_\_\_  
AL WOODHULL

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2007 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2007.

NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2007  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
in the Hampshire County Registry of Deeds.

Town of Amherst  
Zoning Board of Appeals

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit to modify Special Permit ZBA FY1966-49, Conditions #1 and #5, to increase parking along the main access drive and circle for twenty-four (24) more tenant parking spaces and eight (8) more guest parking spaces for a total of one-hundred and thirty-nine (139) parking spaces, under Section 9.22 of the Zoning Bylaw, as applied for by Kamins Real Estate/Geoffrey Roberts (for Presidential Apartments), at 950 North Pleasant Street, (Map 8A, Parcel 1, R-N Zone), with the following conditions:

1. A three (3) foot wide bicycle lane shall be painted and maintained on the pavement on both sides of the access drive. On the north side the lane shall be located immediately next to the curb. On the south side the lane shall be on the outside (north) side of the parallel parking spaces.
2. A speed bump shall be installed and maintained between the entrance to Presidential Apartments and the proposed cross-walk location. A sign shall be installed between the entrance and the cross-walk announcing "Slow – Speed Bump".
3. A cross-walk shall be painted and maintained in the location shown on the plan entitled "Exhibit B – Proposed Changes", near the northeast corner of Washington House. A sign shall be installed between the entrance and the cross-walk announcing "Ped Xing".
4. Signs shall be installed at the cul-de-sac indicating the direction of travel and shall state "Keep Right". Arrows shall be painted and maintained on the roadway at the cul-de-sac indicating that traffic shall flow in a counter-clockwise direction.
5. A sidewalk shall be installed as shown on the plan entitled "Exhibit B – Proposed Changes", except that the sidewalk shall not stop at the parking lot entrance but shall run continuously to the point where the cross-walk crosses the main access drive. The sidewalk, curb cuts, and crosswalk shall meet all applicable AAB (Architectural Access Board) and ADA (Americans with Disabilities Act) requirements.
6. A final revised site plan shall be submitted for review and approval by the Board at a public meeting. The site plan shall include the following items:
  - cross-walk;
  - all sidewalks including the sidewalk extension;
  - speed bump;
  - bicycle lanes;
  - signs;

all as described in Conditions # 1 through # 5 above. Details and specifications regarding materials and design of each of the above items shall be submitted for approval along with the final revised site plan.

7. The guest parking lot located behind Garfield House shall be painted and maintained to delineate eight (8) additional guest parking spaces. The size of these spaces shall be 9' x 18' as required in Section 7.102 of the Zoning Bylaw.

8. The site improvements shall be built in accordance with an approved final revised site plan submitted in compliance with Condition # 6 above.
9. This Special Permit does not supersede the conditions of the previous Special Permits (ZBA FY 1963-16 and ZBA FY 1966-49) issued for this property.
10. The property shall be managed in accordance with the Management Plan approved by the Board on September 20, 2007.

---

RUSSELL FRANK, Chair  
Amherst Zoning Board of Appeals

---

DATE